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Paper No. 9

DORSEY & WHITNEY, LLP  
SUITE 4700  
370 SEVENTEENTH STREET  
DENVER CO 80202-5647

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**FEB 21 2002**

**OFFICE OF PETITIONS**

In re Application of	:	
Mosimann et al.	:	
Application No. 09/848,105	:	ON PETITION
Filed: 2 May, 2001	:	
Attorney's Docket No. 11006.00	:	

Receipt is acknowledged of the petition first filed on 27 August, 2001, captioned "Petition Regarding Allegedly Omitted Figures 4 and 10" concerning the Patent and Trademark Office's handling of the above-referenced patent application.

The petition is dismissed.

The application was filed on 2 May, 2001. However, on 29 June, 2001, Initial Patent Examination Division mailed a "Notice" stating that the application had been accorded a filing date of 2 May, 2001, and advising applicant that Figures 4 and 10 described in the specification appeared to have been omitted.

In response, new drawings were filed on 27 August, 2001. Additionally, the present petition was filed on 29 November, 2001. Petitioner explains that Figures 4 and 10 were not missing on 2 May, 2001. Instead, the application included two drawing figures labeled "Figure 3," one of which was intended to be labeled Figure 4. Additionally, the sheet of drawings containing Figure 10 was attached to a group of papers labeled as an appendix also filed on 2 May, 2001.

A review of the official file reveals that sheet 3 of the drawings contains two figures labeled "Figure 3". Additionally, the sheet of drawings containing Figure 10 has been located among the application papers filed on 2 May, 2001.

It is obvious from the petition that no drawing was actually missing on 2 May, 2001. Rather, the drawing of Figure 4 was simply mislabeled as a result of the applicants' filing error. Additionally, Figure 10 was not located with the other drawing sheets due to the applicants' filing error. However, the "Notice" mailed on 29 June, 2001, was correct in stating that Figures 4 and 10 described in the specification appeared to have been omitted. Therefore, the "Notice" was properly mailed and will not be withdrawn.

As the present petition was not necessitated by an error on the part of the Office, the petition fee will not be refunded.

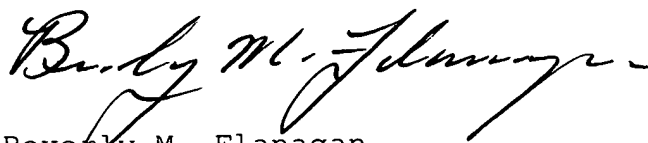
Petitioners should file an amendment renumbering the mislabeled drawing figure and the drawing sheets prior to the first Office action to avoid confusion.

The application will be processed using the application papers present on 2 May, 2001. The copy of the application papers supplied on 27 August, 2001, will not be used for processing or examination, but will be retained in the application file.

Receipt of the substitute drawings filed on 27 August, 2001, is acknowledged.

The application is being returned to the Office of Initial Patent Examination for further processing with the presently-accorded filing date, using the application papers filed on 2 May, 2001, including one (1) sheet of drawings containing Figure 10, and for an indication on the bib-data sheet that eight (8) sheets of drawings were present on filing.

Telephone inquiries concerning this matter may be directed to Petitions Attorney Douglas I. Wood at (703) 308-6918.



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